

# EXHIBIT

# A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

ABIGAIL NOEL FISHER and  
RACHEL MULTER MICHALEWICZ,  
*Plaintiffs,*

v.

STATE OF TEXAS; UNIVERSITY OF  
TEXAS AT AUSTIN; et al.,  
*Defendants.*

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**CIVIL ACTION NO.  
1:08-CV-00263-SS**

**DEFENDANTS' PROPOSED EXHIBIT LIST FOR HEARING ON PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

TO THE HONORABLE SAM SPARKS:

Defendants University of Texas at Austin ("UT Austin"), Mark G. Yudof, David B. Pryor, William Powers, Jr., Board of Regents of the Texas State University System, John W. Barnhill, Jr., H. Scott Caven, Jr., James R. Huffines, Janiece Longoria, Colleen McHugh, Robert B. Rowling, James D. Dannenbaum, Paul Foster, Printice L. Gary, and Bruce Walker (all individuals are sued in their official capacities only) (collectively, the "Defendants") file their proposed exhibit list for the hearing on Plaintiffs' Motion for Preliminary Injunction as follows:

**DEFENDANTS' PROPOSED EXHIBITS**

Exhibit 1.	Affidavit of Gary M. Lavergne (previously filed with Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction)
Exhibit 2.	Business Records Affidavit of Charles A. Roeckle (previously filed with Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction)
Exhibit 3.	Affidavit of Kendra B. Ishop (previously filed with Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction)
Exhibit 4.	Affidavit of Charles A. Roeckle (previously filed with Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction)

Exhibit 5.	Affidavit of Francie A. Frederick (previously filed with Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction)
Exhibit 6.	Affidavit of Michael K. Orr (previously filed with Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction)
Exhibit 7.	Affidavit of Gregory J. Vincent (previously filed with Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction)
Exhibit 8.	Affidavit of Perry Weirich (contemporaneously being served on opposing counsel)

Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

KENT C. SULLIVAN  
First Assistant Attorney General

DAVID S. MORALES  
Deputy Attorney General for Litigation

JAMES C. HO  
Solicitor General

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RYAN CLINTON  
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/s/ James C. Ho  
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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15th day of May, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

**Bert W. Rein**  
**David C. Rybicki**  
**Thomas R. McCarthy**  
Wiley Rein LLP  
1776 K Street, NW  
Washington, DC 20006

**Paul M. Terrill**  
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Austin, TX 78701

/s/ James C. Ho

JAMES C. HO  
Solicitor General

CAUSE NO. 1:08 CA 263SS

Abigail Fisher and  
Rachel Multer Michalewicz

§ In The United States District Court

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§

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v.

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For The Western District of Texas

§

State of Texas, University of Texas at  
Austin, Mark Yudof, David Pryor, Barry  
Burgdorf, William Powers, et al

§

(Austin Division)

§

**AFFIDAVIT of PERRY WEIRICH**

STATE OF TEXAS  
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, personally appeared Perry Weirich, who, being by me duly sworn, upon his/her oath stated:

1. My name is Perry Weirich. I am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts stated in it.

2. I am currently employed full-time by the Texas Education Agency in the Information Analysis Division. My current official job classification is Manager IV. In this position I am required to access and analyze data involving education. I am the custodian of the records attached to this affidavit.

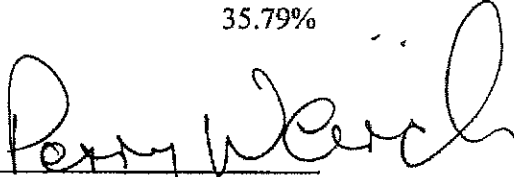
3. The records attached to this affidavit, consisting of 13 pages, are kept by the Texas Education Agency's Information Analysis Division in the regular course of its business. It was in the regular course of that business for an employee or representative of the business with knowledge of the act, event, condition, or opinion recorded to make the records or to transmit information thereof to be included in such records. The records were made at or near the time of the act, event, condition, or opinion recorded, or reasonably soon thereafter. The records attached hereto are true duplicates of the originals.

- a. 1994-1995 Count of Graduates by Ethnicity
- b. 1995-1996 Count of Graduates by Ethnicity
- c. 1996-1997 Count of Graduates by Ethnicity
- d. 1997-1998 Count of Graduates by Ethnicity
- e. 1998-1999 Count of Graduates by Ethnicity
- f. 1999-2000 Count of Graduates by Ethnicity
- g. 2000-2001 Count of Graduates by Ethnicity
- h. 2001-2002 Count of Graduates by Ethnicity
- i. 2002-2003 Count of Graduates by Ethnicity

- j. 2003-2004 Count of Graduates by Ethnicity
- k. 2004-2005 Count of Graduates by Ethnicity
- l. 2005-2006 Count of Graduates by Ethnicity
- m. 2006-2007 Count of Graduates by Ethnicity

4. Based upon the data in these records, I calculated the percentage of Texas high school graduates that were African-American or Hispanic as follows:

<u>Year</u>	<u>African-American Percentage</u>	<u>Hispanic Percentage</u>
1994-95	12.04%	29.07%
1995-96	12.13%	29.13%
1996-97	12.56%	29.78%
1997-98	12.76%	30.61%
1998-99	12.64%	31.01%
1999-00	12.92%	32.08%
2000-01	13.14%	32.32%
2001-02	13.33%	33.07%
2002-03	13.36%	33.92%
2003-04	13.60%	34.98%
2004-05	13.69%	35.28%
2005-06	13.38%	35.53%
2006-07	13.33%	35.79%

  
 Perry Weirich

SUBSCRIBED AND SWORN TO BEFORE ME on the 14th day of May 2008, to certify which witness my hand and official seal.



Notary Public in and for the State of Texas



TEXAS EDUCATION AGENCY  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 1994-1995

YEAR	ETHNICITY	GRADUATE_COUNT
1994-1995	AFRICAN AMERICAN	20,521
	ASIAN	5,575
	HISPANIC	49,540
	NATIVE AMERICAN	403
	WHITE	94,367
	=====	170,406

TEXAS EDUCATION AGENCY  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 1995-1996

YEAR	ETHNICITY	GRADUATE_COUNT
1995-1996	AFRICAN AMERICAN	20,853
	ASIAN	5,340
	HISPANIC	50,098
	NATIVE AMERICAN	409
	WHITE	95,283
		=====
		171,983



TEXAS EDUCATION AGENCY  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 1996-1997

YEAR	ETHNICITY	GRADUATE_COUNT
1996-1997	AFRICAN AMERICAN	22,844
	ASIAN	5,527
	HISPANIC	54,168
	NATIVE AMERICAN	431
	WHITE	98,896
		=====
		181,866

TEXAS EDUCATION AGENCY  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 1997-1998

YEAR	ETHNICITY	GRADUATE_COUNT
1997-1998	AFRICAN AMERICAN	25,165
	ASIAN	6,263
	HISPANIC	60,362
	NATIVE AMERICAN	604
	WHITE	104,792
		197,186

TEXAS EDUCATION AGENCY  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 1998-1999

YEAR	ETHNICITY	GRADUATE_COUNT
1998-1999	AFRICAN AMERICAN	25,708
	ASIAN	6,340
	HISPANIC	63,082
	NATIVE AMERICAN	486
	WHITE	107,777
		=====
		203,393

TEXAS EDUCATION AGENCY  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 1999-2000

YEAR	ETHNICITY	GRADUATE_COUNT
1999-2000	AFRICAN AMERICAN	27,507
	ASIAN	6,862
	HISPANIC	68,314
	NATIVE AMERICAN	521
	WHITE	109,721
		=====
		212,925

TEXAS EDUCATION AGENCY  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 2000-2001

YEAR	ETHNICITY	GRADUATE_COUNT
2000-2001	AFRICAN AMERICAN	28,295
	ASIAN	7,218
	HISPANIC	69,595
	NATIVE AMERICAN	574
	WHITE	109,634
		=====
		215,316

T E X A S E D U C A T I O N A G E N C Y  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 2001-2002

YEAR	ETHNICITY	GRADUATE_COUNT
2001-2002	AFRICAN AMERICAN	30,030
	ASIAN	7,707
	HISPANIC	74,466
	NATIVE AMERICAN	578
	WHITE	112,386
		=====
		225,167

TEXAS EDUCATION AGENCY  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 2002-2003

YEAR	ETHNICITY	GRADUATE_COUNT
2002-2003	AFRICAN AMERICAN	31,801
	ASIAN	8,045
	HISPANIC	80,776
	NATIVE AMERICAN	670
	WHITE	116,817
		=====
		238,109

T E X A S   E D U C A T I O N   A G E N C Y  
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YEAR	ETHNICITY	GRADUATE_COUNT
2003-2004	AFRICAN AMERICAN	33,213
	ASIAN	8,304
	HISPANIC	85,412
	NATIVE AMERICAN	739
	WHITE	116,497
		=====
		244,165



T E X A S E D U C A T I O N A G E N C Y  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 2004-2005

YEAR	ETHNICITY	GRADUATE_COUNT
2004-2005	AFRICAN AMERICAN	32,811
	ASIAN	8,363
	HISPANIC	84,566
	NATIVE AMERICAN	764
	WHITE	113,212
		=====
		239,716

T E X A S E D U C A T I O N A G E N C Y  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 2005-2006

YEAR	ETHNICITY	GRADUATE_COUNT
2005-2006	AFRICAN AMERICAN	32,183
	ASIAN	9,037
	HISPANIC	85,455
	NATIVE AMERICAN	816
	WHITE	112,994
		=====
		240,485

T E X A S E D U C A T I O N A G E N C Y  
COUNT OF GRADUATES BY ETHNICITY  
PEIMS DATA 2006-2007

YEAR	ETHNICITY	GRADUATE_COUNT
2006-2007	AFRICAN AMERICAN	32,139
	ASIAN	9,625
	HISPANIC	86,332
	NATIVE AMERICAN	882
	WHITE	112,215
		=====
		241,193